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8 Attorneys for Plaintiff
9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 CAROLINE JOANNE HERRLING,
aka "Carrie Phenix,"

16 Defendant.
17

No. 2:23-CR-00059-MEMF

PLEA AGREEMENT

18
19 1. This constitutes the plea agreement between CAROLINE JOANNE
20 HERRLING ("defendant") and the United States Attorney's Office for
21 the Central District of California ("the USAO") in the above-
22 captioned case. This agreement is limited to the USAO and cannot
23 bind any other federal, state, local, or foreign prosecuting,
24 enforcement, administrative, or regulatory authorities.

25 DEFENDANT'S OBLIGATIONS

26 2. Defendant agrees to:

27 a. Give up the right to indictment by a grand jury and at
28 the earliest opportunity requested by the USAO and provided by the

1 Court, appear and plead guilty to count one of the information, which
2 charges defendant with conspiracy to commit wire fraud in violation
3 of 18 U.S.C. § 1349.

4 b. Not contest facts agreed to in this agreement.

5 c. Appear for all court appearances, surrender as ordered
6 for service of sentence, obey all conditions of any bond, and obey
7 any other ongoing court order in this matter.

8 d. Not commit any crime; however, offenses that would be
9 excluded for sentencing purposes under United States Sentencing
10 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not
11 within the scope of this agreement.

12 e. Be truthful at all times with the United States
13 Probation and Pretrial Services Office and the Court.

14 f. Pay the applicable special assessment at or before the
15 time of sentencing unless defendant has demonstrated a lack of
16 ability to pay such assessments.

17 g. Not file a notice of appeal, unless the prison
18 sentence imposed exceeds twenty years.

19 h. Agree to and not oppose the imposition of the
20 following conditions of probation or supervised release:

21 The defendant shall submit defendant's person and any
22 property under defendant's control, including any
23 residence, vehicle, papers, computer and other electronic
24 communication or data storage devices and media, and
25 effects, to suspicion-less search and seizure at any time
26 of the day or night by any law enforcement or probation
27 officer, with or without a warrant, and with or without
28 cause; and if stopped or questioned by a law enforcement
officer for any reason, defendant shall notify that officer
that defendant is on federal supervised release and subject
to search.

FORFEITURE AND FINANCIAL ACCOUNTABILITY

3. Defendant further agrees:

a. To forfeit all right, title, and interest in and to any and all monies, properties, and/or assets of any kind, derived from or acquired as a result of, or used to facilitate the commission of, the illegal activity to which defendant is pleading guilty, specifically including, but not limited to, the real property with Assessor's Parcel Number 2005-012-003, commonly known as 8361 Woodlake Avenue, West Hills, California 91304, with title held by CAROLINE HERRLING (the "Forfeitable Property").

b. To the Court's entry of an order of forfeiture at or before sentencing with respect to the Forfeitable Property and to the forfeiture of the property.

c. To take whatever steps are necessary to pass to the United States clear title to the Forfeitable Property, including, without limitation, the execution of a consent decree of forfeiture and the completing of any other legal documents required for the transfer of title to the United States.

d. Not to contest any administrative forfeiture proceedings or civil judicial proceedings commenced against the Forfeitable Property. If defendant submitted a claim and/or petition for remission for all or part of the Forfeitable Property on behalf of himself or any other individual or entity, defendant shall and hereby does withdraw any such claims or petitions, and further agrees to waive any right he may have to seek remission or mitigation of the forfeiture of the Forfeitable Property.

e. Not to assist any other individual in any effort falsely to contest the forfeiture of the Forfeitable Property.

1 f. Not to claim that reasonable cause to seize the
2 Forfeitable Property was lacking.

3 g. To prevent the transfer, sale, destruction, or loss of
4 the Forfeitable Property to the extent defendant has the ability to
5 do so.

6 h. To fill out and deliver to the USAO a completed
7 financial statement listing defendant's assets on a form provided by
8 the USAO.

9 i. That forfeiture of Forfeitable Property shall not be
10 counted toward satisfaction of any special assessment, fine,
11 restitution, costs, or other penalty the Court may impose.

12 4. With respect to any criminal forfeiture ordered as a result
13 of this plea agreement, defendant waives: (1) the requirements of
14 Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice
15 of the forfeiture in the charging instrument, announcements of the
16 forfeiture sentencing, and incorporation of the forfeiture in the
17 judgment; (2) all constitutional and statutory challenges to the
18 forfeiture (including by direct appeal, habeas corpus or any other
19 means); and (3) all constitutional, legal, and equitable defenses to
20 the forfeiture of the Forfeitable Property in any proceeding on any
21 grounds including, without limitation, that the forfeiture
22 constitutes an excessive fine or punishment. Defendant acknowledges
23 that forfeiture of the Forfeitable Property is part of the sentence
24 that may be imposed in this case and waives any failure by the Court
25 to advise defendant of this, pursuant to Federal Rule of Criminal
26 Procedure 11(b) (1) (J), at the time the Court accepts defendant's
27 guilty plea.

THE USAO'S OBLIGATIONS

5. The USAO agrees to:

a. Not contest facts agreed to in this agreement.

b. At the time of sentencing, move to dismiss the remaining counts of the information as against defendant. Defendant agrees, however, that at the time of sentencing the Court may consider any dismissed charges in determining the applicable Sentencing Guidelines range, the propriety and extent of any departure from that range, and the sentence to be imposed.

NATURE OF THE OFFENSE

6. Defendant understands that to be guilty of conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349, the following must be true: First, during the time period alleged in the information there was an agreement between two or more persons to commit wire fraud; Second, defendant became a member of the conspiracy knowing of its object and intending to help accomplish it. The elements of wire fraud, in turn, are as follows: First, defendant knowingly participated in or devised a scheme to defraud, or a scheme or plan for obtaining money or property by means of false or fraudulent pretenses, representations, or promises; Second, the statements made or facts omitted as part of the scheme were material, that is, they had a natural tendency to influence, or were capable of influencing, a person to part with money or property; Third, defendant acted with the intent to defraud, that is, the intent to deceive and cheat; and Fourth, defendant used, or caused to be used, wire communications in interstate or foreign commerce to carry out or attempt to carry out an essential part of the scheme.

PENALTIES AND RESTITUTION

7. Defendant understands that the statutory maximum sentence that the Court can impose for this violation of Title 18, United States Code, Section 1349 is: 20 years imprisonment; a three-year period of supervised release; a fine of \$250,000, or twice the gross gain or loss from the offense, whichever is greatest; and a mandatory special assessment of \$100.

8. The Court will also order forfeiture of the property listed in the forfeiture allegation of the information pursuant to 18 U.S.C. § 982, or substitute assets up to the value of that property.

9. Defendant understands that supervised release is a period of time following imprisonment during which defendant will be subject to various restrictions and requirements. Defendant understands that if defendant violates one or more of the conditions of any supervised release imposed, defendant may be returned to prison for all or part of the term of supervised release authorized by statute for the offense that resulted in the term of supervised release, which could result in defendant serving a total term of imprisonment greater than the statutory maximum stated above.

10. Defendant understands that, by pleading guilty, defendant may be giving up valuable government benefits and valuable civic rights, such as the right to vote, the right to possess a firearm, the right to hold office, and the right to serve on a jury. Defendant understands that defendant is pleading guilty to a felony and that it is a federal crime for a convicted felon to possess a firearm or ammunition. Defendant understands that the conviction in this case may also subject defendant to various other collateral consequences, including but not limited to revocation of probation,

1 parole, or supervised release in another case and suspension or
2 revocation of a professional license. Defendant understands that
3 unanticipated collateral consequences will not serve as grounds to
4 withdraw defendant's guilty plea.

5 11. Defendant understands that defendant will be required to
6 pay full restitution to the victims of the offense to which defendant
7 is pleading guilty. Defendant agrees that, in return for the USAO's
8 compliance with its obligations under this agreement, the Court may
9 order restitution to persons other than the victims of the offense to
10 which defendant is pleading guilty and in amounts greater than those
11 alleged in the count to which defendant is pleading guilty. In
12 particular, defendant agrees that the Court may order restitution to
13 any victim of any of the following for any losses suffered by that
14 victim as a result: (a) any relevant conduct, as defined in U.S.S.G.
15 § 1B1.3, in connection with the offense to which defendant is
16 pleading guilty; and (b) any counts dismissed and charges not
17 prosecuted pursuant to this agreement as well as all relevant
18 conduct, as defined in U.S.S.G. § 1B1.3, in connection with those
19 counts and charges.

20 FACTUAL BASIS

21 12. Defendant admits that defendant is, in fact, guilty of the
22 offense to which defendant is agreeing to plead guilty. Defendant
23 and the USAO agree to the statement of facts provided below and agree
24 that this statement of facts is sufficient to support a plea of
25 guilty to the charge described in this agreement, but is not meant to
26 be a complete recitation of all facts relevant to the underlying
27 criminal conduct or all facts known to either party that relate to
28 that conduct.

1 Beginning in or before 2020, and continuing through at
2 least January 12, 2023, there was an agreement between two
3 or more persons to commit wire fraud. Defendant became a
4 member of the conspiracy knowing of its object and
5 intending to help accomplish it. In furtherance of the
6 conspiracy, defendant forged wills for Jackie Lowenstein
7 and Charles Wilding, leaving assets to members of the
8 conspiracy or identities they controlled. Defendant forged
9 power of attorney forms so that defendant could pretend to
10 act on behalf of her victims when stealing their real
11 estate and savings and investment accounts. Members of the
12 conspiracy removed and hid the body of Charles Wilding to
13 make it appear that he was still alive and supported the
14 disposition of his assets the conspirators wanted.
15 Defendant set up bank and E-Trade accounts to receive the
16 proceeds of the sale of Robert Tascon's real estate, which
17 he did not authorize and was accomplished through identity
18 theft. Defendant used the proceeds of this conspiracy to
19 purchase the residence at 8361 Woodlake Avenue, West Hills,
20 California. Defendant and her co-conspirators used
21 interstate wires to defraud their victims throughout this
22 conspiracy.

23 SENTENCING FACTORS

24 13. Defendant understands that in determining defendant's
25 sentence the Court is required to calculate the applicable Sentencing
26 Guidelines range and to consider that range, possible departures
27 under the Sentencing Guidelines, and the other sentencing factors set
28 forth in 18 U.S.C. § 3553(a). Defendant understands that the
Sentencing Guidelines are advisory only, that defendant cannot have
any expectation of receiving a sentence within the calculated
Sentencing Guidelines range, and that after considering the
Sentencing Guidelines and the other § 3553(a) factors, the Court will
be free to exercise its discretion to impose any sentence it finds
appropriate up to the maximum set by statute for the crime of
conviction.

14. Defendant and the USAO have no agreement as to the
appropriate sentence or the applicable Sentencing Guidelines factors.
Both parties reserve the right to seek any sentence within the

1 statutory maximum, and to argue for any criminal history score and
2 category, base offense level, specific offense characteristics,
3 adjustments, departures, and variances.

4 WAIVER OF CONSTITUTIONAL RIGHTS

5 15. Defendant understands that by pleading guilty, defendant
6 gives up the following rights:

7 a. The right to persist in a plea of not guilty.

8 b. The right to a speedy and public trial by jury.

9 c. The right to be represented by counsel - and if
10 necessary have the Court appoint counsel - at trial. Defendant
11 understands, however, that, defendant retains the right to be
12 represented by counsel - and if necessary have the Court appoint
13 counsel - at every other stage of the proceeding.

14 d. The right to be presumed innocent and to have the
15 burden of proof placed on the government to prove defendant guilty
16 beyond a reasonable doubt.

17 e. The right to confront and cross-examine witnesses
18 against defendant.

19 f. The right to testify and to present evidence in
20 opposition to the charges, including the right to compel the
21 attendance of witnesses to testify.

22 g. The right not to be compelled to testify, and, if
23 defendant chose not to testify or present evidence, to have that
24 choice not be used against defendant.

25 h. Any and all rights to pursue any affirmative defenses,
26 Fourth Amendment or Fifth Amendment claims, and other pretrial
27 motions that have been filed or could be filed.

1 LIMITED WAIVER OF DISCOVERY

2 16. In exchange for the government's obligations under this
3 agreement, defendant gives up any right defendant may have had to
4 review any additional discovery.

5 ABANDONMENT OF DIGITAL DEVICES AND FIREARMS

6 17. Defendant abandons all right, title, and interest defendant
7 had in any of the digital devices, firearms, or ammunition seized by
8 law enforcement officials in the investigation of this case, which
9 defendant admits are instrumentalities of defendant's offense.

10 WAIVER OF APPEAL OF CONVICTION

11 18. Defendant understands that, with the exception of an appeal
12 based on a claim that defendant's guilty plea was involuntary, by
13 pleading guilty defendant is waiving and giving up any right to
14 appeal defendant's conviction on the offense to which defendant is
15 pleading guilty. Defendant understands that this waiver includes,
16 but is not limited to, arguments that the statute to which defendant
17 is pleading guilty is unconstitutional, and any and all claims that
18 the statement of facts provided herein is insufficient to support
19 defendant's plea of guilty.

20 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

21 19. Defendant agrees that, provided the Court imposes a total
22 term of imprisonment on all counts of conviction of no more than
23 twenty years, defendant gives up the right to appeal all of the
24 following: (a) the procedures and calculations used to determine and
25 impose any portion of the sentence; (b) the term of imprisonment
26 imposed by the Court; (c) the fine imposed by the Court, provided it
27 is within the statutory maximum; (d) to the extent permitted by law,
28 the constitutionality or legality of defendant's sentence, provided

1 it is within the statutory maximum; (e) the amount and terms of any
2 restitution order, provided it requires payment of no more than
3 \$10,000,000; (f) the term of probation or supervised release imposed
4 by the Court, provided it is within the statutory maximum; and
5 (g) the conditions of probation or supervised release imposed by the
6 Court.

7 20. Defendant also gives up any right to bring a post-
8 conviction collateral attack on the conviction or sentence, including
9 any order of restitution, except a post-conviction collateral attack
10 based on a claim of ineffective assistance of counsel, a claim of
11 newly discovered evidence, or an explicitly retroactive change in the
12 applicable Sentencing Guidelines, sentencing statutes, or statutes of
13 conviction.

14 21. The USAO gives up its right to appeal any portion of the
15 sentence.

16 RESULT OF WITHDRAWAL OF GUILTY PLEA

17 22. Defendant agrees that if, after entering a guilty plea
18 pursuant to this agreement, defendant seeks to withdraw and succeeds
19 in withdrawing defendant's guilty plea on any basis other than a
20 claim and finding that entry into this plea agreement was
21 involuntary, then (a) the USAO will be relieved of all of its
22 obligations under this agreement; (b) should the USAO choose to
23 pursue any charge that was either dismissed or not filed as a result
24 of this agreement, then (i) any applicable statute of limitations
25 will be tolled between the date of defendant's signing of this
26 agreement and the filing commencing any such action; and
27 (ii) defendant waives and gives up all defenses based on the statute
28 of limitations, any claim of pre-indictment delay, or any speedy

1 trial claim with respect to any such action, except to the extent
2 that such defenses existed as of the date of defendant's signing this
3 agreement.

4 EFFECTIVE DATE OF AGREEMENT

5 23. This agreement is effective upon signature and execution of
6 all required certifications by defendant, defendant's counsel, and an
7 Assistant United States Attorney.

8 BREACH OF AGREEMENT

9 24. Defendant agrees that if defendant, at any time after the
10 signature of this agreement and execution of all required
11 certifications by defendant, defendant's counsel, and an Assistant
12 United States Attorney, knowingly violates or fails to perform any of
13 defendant's obligations under this agreement ("a breach"), the USAO
14 may declare this agreement breached. All of defendant's obligations
15 are material, a single breach of this agreement is sufficient for the
16 USAO to declare a breach, and defendant shall not be deemed to have
17 cured a breach without the express agreement of the USAO in writing.
18 If the USAO declares this agreement breached, and the Court finds
19 such a breach to have occurred, then: (a) if defendant has previously
20 entered a guilty plea pursuant to this agreement, defendant will not
21 be able to withdraw the guilty plea, and (b) the USAO will be
22 relieved of all its obligations under this agreement.

23 25. Following the Court's finding of a knowing breach of this
24 agreement by defendant, should the USAO choose to pursue any charge
25 that was either dismissed or not filed as a result of this agreement,
26 then:
27
28

1 a. Defendant agrees that any applicable statute of
2 limitations is tolled between the date of defendant's signing of this
3 agreement and the filing commencing any such action.

4 b. Defendant waives and gives up all defenses based on
5 the statute of limitations, any claim of pre-indictment delay, or any
6 speedy trial claim with respect to any such action, except to the
7 extent that such defenses existed as of the date of defendant's
8 signing this agreement.

9 COURT, PROBATION, AND PRETRIAL NOT PARTIES

10 26. Defendant understands that the Court and the United States
11 Probation and Pretrial Services Office are not parties to this
12 agreement and need not accept any of the USAO's sentencing
13 recommendations or the parties' agreements to facts.

14 27. Defendant understands that both defendant and the USAO are
15 free to: (a) supplement the facts by supplying relevant information
16 to the United States Probation and Pretrial Services Office and the
17 Court, (b) correct any and all factual misstatements relating to the
18 Court's Sentencing Guidelines calculations and determination of
19 sentence, and (c) argue on appeal and collateral review that the
20 Court's Sentencing Guidelines calculations and the sentence it
21 chooses to impose are not error. While this paragraph permits both
22 the USAO and defendant to submit full and complete factual
23 information to the United States Probation and Pretrial Services
24 Office and the Court, even if that factual information may be viewed
25 as inconsistent with the facts agreed to in this agreement, this
26 paragraph does not affect defendant's and the USAO's obligations not
27 to contest the facts agreed to in this agreement.

1 28. Defendant understands that even if the Court ignores any
2 sentencing recommendation, finds facts or reaches conclusions
3 different from those agreed to, and/or imposes any sentence up to the
4 maximum established by statute, defendant cannot, for that reason,
5 withdraw defendant's guilty plea, and defendant will remain bound to
6 fulfill all defendant's obligations under this agreement. Defendant
7 understands that no one -- not the prosecutor, defendant's attorney,
8 or the Court -- can make a binding prediction or promise regarding
9 the sentence defendant will receive, except that it will be within
10 the statutory maximum.

11 NO ADDITIONAL AGREEMENTS

12 29. Defendant understands that, except as set forth in this
13 agreement and any contemporaneously signed addendum, there are no
14 promises, understandings, or agreements between the USAO and
15 defendant or defendant's attorney, and that no additional promise,
16 understanding, or agreement may be entered into unless in a writing
17 signed by all parties or on the record in court.

18 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

19 30. The parties agree that this agreement will be considered
20 part of the record of defendant's guilty plea hearing as if the
21 entire agreement had been read into the record of the proceeding.

22 AGREED AND ACCEPTED

23 ///

1 UNITED STATES ATTORNEY'S OFFICE
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 E. MARTIN ESTRADA
4 United States Attorney
Andrew Brown

February 6, 2023

5 ANDREW BROWN
6 Assistant United States Attorney

Date

7 *Caroline Joanne Herrling*
8 CAROLINE JOANNE HERRLING
9 Defendant

2/13/2023
Date


10 *Alex Kessel*
11 ALEX KESSEL
12 Attorney for Defendant

2-13-23
Date

13 CERTIFICATION OF DEFENDANT

14 I have read this agreement in its entirety. I have had enough
15 time to review and consider this agreement, and I have carefully and
16 thoroughly discussed every part of it with my attorney. I understand
17 the terms of this agreement, and I voluntarily agree to those terms.
18 I have discussed the evidence with my attorney, and my attorney has
19 advised me of my rights, of possible pretrial motions that might be
20 filed, of possible defenses that might be asserted either prior to or
21 at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a),
22 of relevant Sentencing Guidelines provisions, and of the consequences
23 of entering into this agreement. No promises, inducements, or
24 representations of any kind have been made to me other than those
25 contained in this agreement. No one has threatened or forced me in
26 any way to enter into this agreement. I am satisfied with the
27 representation of my attorney in this matter, and I am pleading
28 guilty because I am guilty of the charge and wish to take advantage

1 of the promises set forth in this agreement, and not for any other
2 reason.

3 
4 CAROLINE JOANNE HERRLING
5 Defendant

2/13/2023
Date

6 CERTIFICATION OF DEFENDANT'S ATTORNEY

7 I am defendant's attorney. I have carefully and thoroughly
8 discussed every part of this agreement with my client. Further, I
9 have fully advised my client of defendant's rights, of possible
10 pretrial motions that might be filed, of possible defenses that might
11 be asserted either prior to or at trial, of the sentencing factors
12 set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines
13 provisions, and of the consequences of entering into this agreement.
14 To my knowledge: no promises, inducements, or representations of any
15 kind have been made to my client other than those contained in this
16 agreement; no one has threatened or forced my client in any way to
17 enter into this agreement; my client's decision to enter into this
18 agreement is an informed and voluntary one; and the factual basis set
19 forth in this agreement is sufficient to support my client's entry of
20 a guilty plea pursuant to this agreement.

21 
22 ALEX KESSEL
23 Attorney for Defendant

2-23-23
Date